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August 29, 2001

### **WRITTEN EX PARTE**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW.  
Washington, D.C. 20554

**Re:    Proposal for Phased-In Area Code Relief**  
***Numbering Resource Optimization* – CC Docket No. 99-200**

Dear Ms. Salas:

AT&T has filed the enclosed written *ex parte* presentation with Commissioner Kevin J. Martin. Pursuant to Sections 1.1206(b)(1) and (2), we have filed this notice and the *ex parte* presentation electronically in the docket referenced above.

Please direct any questions regarding this matter to the undersigned or to Douglas Brandon at (202) 223-9222.

Very truly yours,

Davis Wright Tremain LLP

/S/

Suzanne K. Toller



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August 29, 2001

**WRITTEN EX PARTE**

**VIA HAND DELIVERY**

The Honorable Kevin J. Martin  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Proposal for Phased-In Overlays**  
***Numbering Resource Optimization – CC Docket No. 99-200***  
***Ex Parte Presentation***

Dear Commissioner Martin:

As you and John Zeglis discussed in your meeting on August 3, 2001, one of the most critical issues facing wireless carriers today is ensuring an adequate supply of telephone numbers to meet the growing demand for wireless services. In order to help address that issue and to provide states with another area code relief option, a group of wireless carriers, including AT&T Wireless Services, Inc. ("AWS"), submitted a proposal for phased-in area code relief ("Phased-In Overlay Proposal") to the Commission on November 15, 2000.<sup>1</sup> Briefly, this proposal would provide states with the option of establishing an overlay area code that will be used first by non-pooling capable carriers (including wireless carriers) and that ultimately will be "phased in" to an all services overlay code. As discussed below, expeditious adoption of this proposal as an area code relief option would serve the public interest by optimizing number usage and ensuring that all carriers -- pooling and non-pooling alike -- have access to the resources they need to provide

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<sup>1</sup> See Letter to Yog Varma, Deputy Chief, Common Carrier Bureau, from Judith St. Ledger-Roty, CC Docket No. 99-200 (Nov. 15, 2000) ("Phased-In Overlay Proposal") (joint filing on behalf of PCIA, AWS Wireless, Nextel, Verizon Wireless, Verizon Wireless Messaging Services, and VoiceStream Wireless) (copy attached).

telephone service. The comments filed in the Commission's Numbering Resource Optimization Docket<sup>2</sup> generally support the adoption of phased-in overlays as an area code relief option.

*Description of Phased-in Overlays:* Like all overlay codes, phased-in overlay codes would be new area codes that would be "overlaid" on the existing area codes. The overlay code could be used in areas in which pooling has been implemented and that are near exhaust. The phased-in overlay will be used first by non-pooling capable carriers (including wireless carriers). It will ultimately be phased in to an all services overlay code once numbers from the overlay code are needed to "stock" the pool or by November 2002, whichever is sooner. Ten-digit dialing would be waived in the interim period, and there can be no "take back" of wireless numbers. States would not be required to implement phased-in overlays. Phased-in overlays would simply be another area code relief option available to the states.

The phased-in overlay is distinguishable from technology or service specific overlays previously considered and rejected by the Commission in several critical respects.<sup>3</sup> First, the overlay will not be technology or service specific -- the focus of the proposal is more on a technological capability (pooling v. non-pooling) than on a transmission mode or type of service offered. Second, the segregation of non-pooling carriers is temporary and limited. Third, the phased-in proposal avoids the discrimination inherent in other technology-specific plans that comes from the "take-back" of NXXs from carriers using the new code. Finally, because the service specific nature of the overlay code is limited in duration, a phased-in overlay alleviates concerns about the inefficiency -- from a North American Numbering Plan exhaust standpoint -- of restricting NPAs to certain technologies.<sup>4</sup>

*The Phased-in Overlay Proposal Serves The Public Interest.* The adoption of the Phased-in Overlay Proposal as an area code relief option would serve the public interest by optimizing number usage and ensuring that all carriers -- pooling and non-pooling alike -- have access to the resources they need to provide telephone service. Wireless carriers, including AWS are already experiencing significant difficulties obtaining an adequate supply of numbers in some areas of the country. The numbering situation for wireless carriers will become more acute as wireline carriers' numbering needs are increasingly met through thousand block number pooling<sup>5</sup> and area code relief is necessitated solely by wireless carriers' demand for whole NXX codes.

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<sup>2</sup> See Numbering Resource Optimization, CC Docket No. 99-200, Second Further Notice of Proposed Rulemaking, 16 FCC Rcd 306 (2000) ("Second Further Notice").

<sup>3</sup> Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, Declaratory Ruling and Order, 10 FCC Rcd 4596, 4604-05 ¶ 20 (1995). Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19516-17 ¶ 281 (1996).

<sup>4</sup> In New York, the only place where a technology-specific overlay has been implemented, the Public Service Commission ultimately determined that there were too many unassigned codes in the wireless NPA and not enough in the underlying area codes. It therefore opened the overlay to all carriers. The Phased-In Overlay Proposal directly addresses that problem by automatically opening the overlay code as soon as the Pooling Administrator requires additional NXXs to meet the needs of the pool.

<sup>5</sup> Wireless carriers cannot currently pool because they lack the requisite Location Routing Number (LRN) architecture. See Numbering Resource Optimization, CC Docket 99-200, First Report and Order, 15 FCC Rcd 7574, 7478 ¶ 78.

Phased-in overlays will provide the state commissions with another area code relief option that meets the needs of non-pooling carriers while decreasing the overall burden and inconvenience of area code relief. Specifically, with a phased-in area overlay, no customers have to change their phone numbers and 7-digit dialing can continue for a longer period of time. In addition, creation of a transitional code for non-pooling carriers may permit pooling to extend the life span of area codes very close to exhaust. Accordingly, expeditious adoption of the Phased-in Overlay Proposal would serve the needs of non-pooling carriers for whole codes, of states that are facing jeopardy situations in many NPAs, and of the Commission in ensuring that number usage is optimized and that its mandates are obeyed.

*The Record Supports Adoption Phased-in-Overlays.* The Commission sought comment on the Phased-in Overlay Proposal in the Second Further Notice of Proposal Rulemaking in its Numbering Resource Optimization Docket.<sup>6</sup> Comments were filed on February 14, 2001; reply comments were filed on March 7, 2001. As discussed below, the majority of commenters support the adoption of phased-in overlays as an area code relief option.<sup>7</sup> The Phased-in Overlay Proposal was supported by a broad cross-section of the commenters, including carriers (pooling and non-pooling), industry associations and state commissions.

- Almost all of the non-pooling carrier commenters supported the proposal.<sup>8</sup> Although a number of these commenters expressed some reservations and (and even trepidation) about how phased-in overlays would be used by the states, these carriers recognize that the Phased-in Overlay Proposal may be the only way for non-pooling carriers to obtain numbers in certain areas of the country.<sup>9</sup>
- Although some pooling carriers opposed the proposal – either because they wanted to preserve the Commission’s ban against technology specific overlays or believed the proposal to discriminate in favor of wireless providers,<sup>10</sup> a number of pooling carriers,

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<sup>6</sup> See Second Further Notice at ¶ 127 (2000).

<sup>7</sup> Comments of AT&T at 4-8; Comments of BellSouth at 3-10; Comments of the California PUC at 3 (“while California is unlikely to take advantage of the “transitional overlay” in the near term, other state Commissions may find the option attractive”); Comments of Cingular Wireless at 6-7; Comments of the Connecticut DPUC at 3, 9; Comments of CTIA at 6-9; Comments of Florida PSC at 1, 4; Comments of the Michigan PSC at 2 (“MPSC would welcome the authority to implement transitional overlays”); Comments of PCIA at 3; Reply Comments of PCIA at 4; Comments of the Texas PUC at 7-8 ; Comments of Verizon at 6; Reply Comments of Verizon at 1-2; Comments of Verizon Wireless at 5-13; Comments of VoiceStream at 2-6; and Comments of WorldCom at 3.

<sup>8</sup> See, e.g. Comments of AT&T at 4-8; Comments of Cingular Wireless at 5-7; Comments of PCIA at 3-4, 6; Reply Comments of PCIA at 3-6; Comments of Verizon Wireless at 6-14; Comments of VoiceStream at 2-7; Comments of CTIA at 6-9.

<sup>9</sup> See, e.g. Comments of AT&T at 4; Comments of Cingular Wireless at 6; Comments of PCIA at 3-4; Comments of Verizon Wireless at 6-7; Comments of VoiceStream at 5; Comments of CTIA at 8-9.

<sup>10</sup> See, e.g. Focal Comments at 2-4 (phased-in overlays unreasonably favor wireless carriers); ALTS Comments at 2-6 (the Commission should retain its prohibition against all types of service specific overlays, including a transitional overlay).

including MCI Worldcom and several ILECs support phased-in overlays as an area code relief option.<sup>11</sup>

- Finally most of the state commenters support adoption of transitional overlays as an area code relief option.<sup>12</sup> Although a number of the states would prefer a permanent technology specific overlay,<sup>13</sup> no state was opposed to adopting phased-in overlay as an optional form of area code relief. Moreover, a number of the states recognized that phased-in overlays provide a palatable interim solution to the current numbering problems. For example:
  - The Connecticut Department of Utility Control views the Phased-in Overlay Proposal as “a workable solution for area code relief” because it would extend the life of existing NPAs in pooling areas and provide non-pooling carriers with the resources they need to provide service.<sup>14/</sup> Notably, the Connecticut Department filed a subsequent petition seeking authority to implement a transitional overlay on a trial basis.<sup>15/</sup>
  - The Michigan Public Service Commission asserts that it “would like to have ‘transitional overlay’ added to the options available to the states for area code relief.”<sup>16/</sup> According to the Michigan Commission, the addition of another alternative would enhance consumer choice by giving states the ability offer the best numbering tool for the specific geographic areas in need of numbering relief.<sup>17/</sup>
  - The New York Department of Public Service also agrees that “by temporarily diverting a portion of the demand for numbering resources in existing area codes,

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<sup>11</sup> WorldCom Comments at 2-5; BellSouth Comments at 2-10 (phased-in overlays may encourage state commissions' timely implementation of area code relief); SBC Comments at 3 (phased-in overlays strike a balance between area code relief, optimal use of the NPA resource, subscriber needs and state commission opposition to ten-digit local dialing); Verizon Comments at 6-7.

<sup>12</sup> Connecticut DPUC Comments at 6; Illinois Commerce Commission Comments at 4-9; Michigan PSC Comments at 2; New York PSC Comments at 2 (New York supports a phased-in overlay but objects to a plan requiring 10-digit dialing); Ohio PUC Comments at 5 (supports transitional overlays as an option for states). also note the State Coordination Group, made up of 14 State Commissions, “do[es] not object if the FCC decides to add the transitional overlay to the options available to states in developing an area code relief plan.” Connecticut DPUC Comments at 17 (attaching State Coordination Group Outline).

<sup>13</sup> See, e.g. California PUC Comments at 3-5 (supporting long-term expanded overlays); Florida PSC Comments at 5; Illinois Commerce Commission Comments at 1, 4-10; Michigan PSC Comments at 1-2.

<sup>14/</sup> See Connecticut DPUC Comments at 6-11.

<sup>15/</sup> Connecticut DPUC Petition for Authority to Conduct a Transitional Service Technology Specific Overlay Trial (filed March 7, 2001 in CC Dkts. 96-98 and 99-200).

<sup>16/</sup> See Michigan Public Service Commission Comments at 2.

<sup>17/</sup> Id. at 2-3.

implementation of technology-specific overlays will help ease the transition to needed area code relief without harming competition.”<sup>18/</sup>

## **Conclusion**

The Phased-in Overlay Proposal is ripe for adoption by the Commission. Adding phased-in overlays as an area code relief option would serve the public interest by optimizing number usage and ensuring that all carriers have access to the resources they need to provide telephone service. The record in the Numbering Optimization Proceeding illustrates that there is broad support for the proposal among carriers and states alike. The Commission should adopt the Phased-in Overlay Proposal on an expedited basis, or in the alternative, adopt the proposal in conjunction with its forthcoming order regarding Numbering Resource Optimization.

Pursuant to Sections 1.1206(b)(1) and (2), AWS has filed two copies of this presentation and with a notification letter electronically in the docket referenced above. AWS would be pleased to provide additional copies of the written materials upon request.

Please direct any questions regarding this matter to the undersigned or to Suzanne Toller at (415) 276-6536.

Respectfully submitted,

Douglas I. Brandon

Vice President – Legal and External Affairs

cc: Tom Sugrue, Chief, Wireless Bureau  
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Jordan Goldstein, Senior Legal Advisor to Commissioner Copps  
Sam Feder, Interim Senior Legal Advisor to Commissioner Martin  
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<sup>18/</sup> See New York Department of Public Service Comments at 2 (although the New York Department of Public Service does not object to a phased-in overlay, it opposes any requirement that phases out 7-digit dialing).